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10 Attorneys for Defendant LYFT, INC.  
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12 UNITED STATES DISTRICT COURT  
13 SOUTHERN DISTRICT OF CALIFORNIA  
14

15 JASON DAVID BODIE,  
individually and on behalf of all  
16 others similarly situated,

17 Plaintiff,

18 vs.

19 LYFT, INC.,

20 Defendant.  
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Case No. 3:16-CV-2558-L-NLS

**DEFENDANT LYFT, INC.'S NOTICE  
OF MOTION AND MOTION TO  
DISMISS OR, IN THE  
ALTERNATIVE, TO STAY  
COMPLAINT**

[Filed concurrently with Memorandum of  
Points and Authorities]

Judge: Hon. M. James Lorenz

Date: February 6, 2017

Time: [No oral argument pursuant to  
Local Rule]

Ctrm.: 5B

1 TO PLAINTIFF AND HIS COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE THAT on February 6, 2017, before the Honorable  
 3 M. James Lorenz, in Courtroom 5B at 221 West Broadway, San Diego, California,  
 4 92101, Defendant Lyft, Inc. (“Lyft”) will and hereby does move the Court for an  
 5 order dismissing Plaintiff’s complaint, or in the alternative, staying this action  
 6 pending the D.C. Circuit’s decision in *ACA International v. FCC*, No. 15-1211.  
 7 This motion is brought pursuant to Federal Rules of Civil Procedure 12(b)(1) and  
 8 12(b)(6) on the grounds that (1) Plaintiff lacks standing because he has failed to  
 9 allege the concrete injury-in-fact required by Article III, and (2) the Complaint’s  
 10 conclusory allegation that Lyft used an automatic telephone dialing system (ATDS)  
 11 is insufficient to state a colorable claim for relief. In the alternative, this action  
 12 should be stayed in light of the D.C. Circuit’s potentially outcome-determinative  
 13 decision in *ACA International* that will, at the very least, clarify a threshold issue in  
 14 this case. A stay would promote judicial economy and conserve both parties’  
 15 resources without any significant prejudice to either party.

16 This motion is based on this Notice of Motion and Motion, the Memorandum  
 17 of Points and Authorities attached hereto, any hearing on this motion, the complete  
 18 files and records in this action, and such additional matters as the Court may  
 19 consider.

20  
 21 DATED: December 15, 2016 MUNGER, TOLLES & OLSON LLP

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 23 By: /s/ Jonathan H. Blavin

24 JONATHAN H. BLAVIN

25 Attorneys for Defendant Lyft, Inc.  
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